

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS

FILED

DEC 18 2014

CLERK, U.S. DISTRICT COURT

By

Deputy

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

JOHN E. RODARTE SR.,

§

§

Petitioner,

§

§

v.

§

No. 4:14-CV-1009-A

§

UNITED STATES COURT OF APPEALS,

§

FIFTH CIRCUIT,

§

WILLIAM STEPHENS, DIRECTOR,

§

TEXAS DEPARTMENT OF CRIMINAL

§

JUSTICE,

§

§

Respondents.

§

MEMORANDUM OPINION

and

ORDER

The clerk of court opened and docketed "Petitioner's Complaint and Notice Thereof," as a purported petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 filed by petitioner John E. Rodarte Sr., a state prisoner, against the named respondents. After having considered the petition and the relief sought by petitioner, the court has concluded that the petition should be summarily dismissed for lack of subject matter jurisdiction.

I. Discussion

On September 3, 2004, in Bexar County, Texas, cause no. 2003CR6651, petitioner was convicted of aggravated sexual assault of a child and indecency with a child and sentenced to life and

twenty years' imprisonment, respectively. See the TDCJ website, "Offender Information Details," at <http://offender.tdcj.state.tx.us>. Petitioner sought federal habeas relief from his conviction(s) in the San Antonio Division of the United States District Court for Southern District, where the convicting court is located, on at least two occasions, most recently in *Rodarte v. Stephens*, Civil Action No. 5:13-CV-1126-HLH, wherein the petition was dismissed as a second or successive § 2254 petition. See 28 U.S.C. § 2244(b). By way of this action, Petitioner appears to challenge the Fifth Circuit Court of Appeals's denial of a certificate of appealability and/or the United States Supreme Court's dismissal of his writ of certiorari as untimely in that action. Pet. 1-2, ECF No. 1.

This court has the duty to assure that it has jurisdiction over the matters before it. See *Burge v. Parish of St. Tammany*, 187 F.3d 452, 465-66 (5th Cir. 1999); *MCG, Inc. v. Great W. Energy Corp.*, 896 F.2d 170, 173 (5th Cir. 1990). Petitioner challenges orders issued by the Fifth Circuit and/or the United States Supreme Court in another federal habeas proceeding. *Rodarte v. Stephens*, Civil Action No. 5:13-CV-1126-HLH. This court has no authority to review the decisions of the courts in that action.

For the reasons discussed herein,

The court ORDERS petitioner's petition for a writ of habeas corpus be, and is hereby, dismissed for lack of subject matter jurisdiction. For the reasons discussed herein, the court further ORDERS that a certificate of appealability be, and is hereby, denied.

SIGNED December 18, 2014.



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JOHN MCBRYDE  
UNITED STATES DISTRICT JUDGE